

## **Assembly Bill No. 1576**

### **CHAPTER 374**

An act to add Section 454.6 to the Public Utilities Code, relating to public utilities.

[Approved by Governor September 29, 2005. Filed with  
Secretary of State September 29, 2005.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 1576, Nunez. Electrical corporations: rates: repowering projects.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations. Existing law authorizes the PUC to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Under existing law, a public utility has a duty to serve, including furnishing and maintaining adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities as are necessary to promote the safety, health, comfort, and convenience of its patrons and the public. The Public Utilities Act requires the PUC to review and adopt a procurement plan for each electrical corporation in accordance with specified elements, incentive mechanisms, and objectives, including the requirement that the procurement plan enable the electrical corporation to fulfill its obligation to serve its customers at just and reasonable rates.

The existing Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission) and requires it to certify sufficient sites and related facilities that are required to provide a supply of electricity sufficient to accommodate projected demand for electricity statewide. The act grants the Energy Commission the exclusive authority to certify any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant thereto. Existing law, until January 1, 2007, requires the Energy Commission to establish a process for the expedited review of applications to construct and operate thermal powerplants and related facilities and for the expedited review of repowering projects, as defined.

This bill would require that the costs of a contract entered into pursuant to a procurement plan by an electrical corporation for the electricity generated by a replacement or repowering project concerning a thermal powerplant that meets specified criteria be recoverable in rates, taking into account any collateral requirements and debt equivalence associated with the contract, in a manner determined by the PUC to provide the best value to ratepayers.

Existing law requires the Energy Commission to prepare an integrated energy policy report every 2 years. Existing law requires the report to contain an overview of major energy trends and issues facing the state, including, but not limited to, supply, demand, pricing, reliability, efficiency, and impacts on public health and safety, the economy, resources, and the environment.

This bill would require the Energy Commission, in consultation with the State Water Resources Control Board, to include in the integrated energy policy report to be adopted November 1, 2007, a review of the progress made toward implementing certain performance standards adopted pursuant to the federal Water Pollution Control Act for electrical generating facilities requiring certificates from the Energy Commission.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) It is in the public interest for the state's electricity generating facilities to provide clean, reliable, efficient, and affordable electricity to the state's electricity consumers.

(b) Certain existing electric generating facilities are strategically located and interconnected to gas transmission pipelines and the electric transmission system in a manner that optimizes their reliability, deliverability, their cost-effectiveness, and their ability to deliver electricity to load centers.

(c) Many of these existing electric generating facilities exhibit less than optimal environmental performance, reliability, and efficiency compared to facilities that have been more recently permitted to operate.

(d) According to the State Energy Resources Conservation and Development Commission, a number of these older, less efficient electric generating facilities are at a high risk of being retired in the next several years. As a result, their generating capacity, which establishes a valuable reserve margin for the state, helps to provide local reliability and voltage support, and alleviates transmission congestion, may no longer be available.

(e) Because of their strategic location and existing infrastructure, it is in the best interest of the state to encourage the replacement or repowering of these facilities.

(f) Investment in replacement or repowered electric generating facilities replaces our aging facilities with more efficient and cost-effective facilities that enhance environmental quality and provide economic benefits to the communities in which they are located.

(g) Therefore, it is in the public interest for the state to facilitate investment in the replacement or repowering of older, less-efficient electric generating facilities in order to improve local area reliability and enhance the environmental performance, reliability, efficiency, and cost-effectiveness of these facilities.

(h) An effective means for facilitating that investment, while ensuring adequate ratepayer protection, is to authorize electrical corporations to enter into long-term contracts for the electricity generated from these facilities on a cost-of-service basis.

(i) Contracts approved by the Public Utilities Commission and certificates approved by the Energy Commission for the replacement or repowering of older, less-efficient electric generating facilities should achieve improvements in environmental performance to the maximum extent practicable, including reductions in air emissions and water use and discharge, compared to the replaced or repowered facility.

SEC. 2. Section 454.6 is added to the Public Utilities Code, to read:

454.6. (a) A contract entered into pursuant to Section 454.5 by an electrical corporation for the electricity generated by a replacement or repowering project that meets the criteria specified in subdivision (b) shall be recoverable in rates, taking into account any collateral requirements and debt equivalence associated with the contract, in a manner determined by the commission to provide the best value to ratepayers.

(b) To be eligible for rate treatment in accordance with subdivision (a), a contract shall be for a project which meets all of the following criteria:

(1) The project is a replacement or repowering of an existing generation unit of a thermal powerplant.

(2) The project complies with all applicable requirements of federal, state, and local laws.

(3) The project will not require significant additional rights-of-way for electrical or fuel-related transmission facilities.

(4) The project will result in significant and substantial increases in the efficiency of the production of electricity.

(5) The Independent System Operator or local system operator certifies that the project is needed for local area reliability.

(6) The project provides electricity to consumers of this state at the cost of generating that electricity, including a reasonable return on the investment and the costs of financing the project.

SEC. 3. The State Energy Resources Conservation and Development Commission, in consultation with the State Water Resources Control Board, in the integrated energy policy report to be adopted November 1, 2007, pursuant to Section 25302 of the Public Resources Code, shall include a review of the progress made toward implementing the performance standards adopted by the Administrator of the Environmental Protection Agency pursuant to Section 316 of the federal Water Pollution Control Act (33 U.S.C. Secs. 13161 and 1326) for electrical generating facilities requiring certificates pursuant to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code.